

Board of Contract Appeals

General Services Administration
Washington, D.C. 20405

June 10, 2005

GSBCA 16542-RELO

In the Matter of MARSHA M. WEBB (DOMPREH)

Marsha M. Webb (Domp reh), Albuquerque, NM, Claimant.

Otis Jones, Director, Payments and Collection Division, CFO Accounting Office, Department of Housing and Urban Development, Ft. Worth, TX, appearing for Department of Housing and Urban Development.

HYATT, Board Judge.

Claimant, Marsha M. Webb (Domp reh), was transferred by the Department of Housing and Urban Development (HUD) from Springfield, Illinois, to Albuquerque, New Mexico. She was notified of her transfer on February 25, 2004, and given a reporting date of March 8, 2004. The short notice for reporting to her new duty station was necessitated by staffing shortages at the Albuquerque office, where she assumed the duties of Acting Field Director.

At the time she was transferred, Ms. Webb was working in Springfield and leased an apartment in that city, while her spouse and permanent residence were located in Memphis, Tennessee. When she learned of her transfer to Albuquerque, Ms. Webb contacted the Department's National Relocation Center, which, on March 2, 2004, provided her with a questionnaire to fill out and instructed her on how to obtain a relocation booklet "on the Department's website." Ms. Webb filled out the questionnaire, electing the fixed amount options for her house hunting trip allowance and for temporary quarters subsistence expenses

(TQSE). She faxed the completed questionnaire to the National Relocation Center on March 3, 2004. Her relocation orders were prepared, approved, and signed by March 5, specifically to allow Ms. Webb to report to her new duty station on March 8, ahead of her family. In addition to the fixed amount options for TQSE and house hunting, Ms. Webb was authorized to fly to Albuquerque in order to report for duty. In addition, she was authorized to have one car transported and the other driven to her new duty station. Her household goods were authorized to be shipped via a Government bill of lading (GBL).

Because of the tight time frame for her transfer, Ms. Webb effectively received only one day for house hunting prior to reporting for duty. Her travel orders authorized, and she was reimbursed, \$555 for house hunting under the fixed amount option. After claimant reported to Albuquerque and realized that thirty days was not enough time to get settled, she contacted the HUD relocation office and asked to change her TQSE election from the fixed to the actual expense method. The agency told her that it would not be possible to change the election. Claimant's travel orders expressly noted that the house hunting and TQSE elections could only be charged prior to taking the house hunting trip or entering into temporary quarters.

Although Ms. Webb was working in Springfield, Illinois, at the time of her transfer, her spouse, and most of her home furnishings, were located in Memphis, Tennessee, which she considered to be her primary residence. She inquired about having belongings from both the Springfield and Memphis locations shipped to Albuquerque. The agency told her that a pick-up could occur at both locations, but that she could not be reimbursed for costs in excess of the cost of transporting 18,000 pounds of household goods from Springfield, Illinois, to Albuquerque. Ms. Webb thus asked the mover to make a pick-up first from her apartment in Springfield, and subsequently from her home in Memphis.

Ms. Webb describes several difficulties in dealing with the moving company selected by the Government to move her household furnishings, including disputes that arose between members of her family and the moving company's employees both in Springfield and in Memphis. She states that she tried to resolve these issues by telephone, but the movers who arrived at her home called their headquarters office for guidance, after which a supervisory employee of the moving company spoke with the HUD employee responsible for assisting with claimant's relocation and issued an ultimatum to the effect that nothing would be moved unless Ms. Webb came to Memphis in person to facilitate the remainder of the move. Ms. Webb was told by the HUD employee that she had no choice but to return to Memphis if she wanted the Government to pay for the shipment of her household goods. Ms. Webb asked the HUD employee's supervisor for assistance. She tells us that he looked into the matter and also advised Ms. Webb that if she wanted her household goods to be moved by the Government she would have to return promptly to Memphis, at her own expense, to deal with

the situation. After this conversation, Ms. Webb felt she had no choice but to return to Memphis, and she did so. She contends that HUD should reimburse her for the expense she incurred in traveling to Memphis and then returning to Albuquerque.

Finally, Ms. Webb states that after she dealt with the moving company, she elected to drive one of her two vehicles back to Albuquerque after her furniture was moved. Her husband was not yet ready to move to Albuquerque because of medical problems. He planned to drive the second vehicle to Albuquerque when he was able to make the move. Ms. Webb has asked to be reimbursed for the cost of driving her car to the new duty station. She believes she should either be reimbursed for mileage or, alternatively, for the expense of shipping the car, which is only a little less than the cost of mileage.

Discussion

To summarize, claimant has requested our review of the agency's determinations with respect to (1) her house hunting trip allowance; (2) her election of the fixed option TQSE benefit; (3) the cost of air fare that she incurred in order to be present when the movers packed and loaded her household goods in Memphis; and (4) the cost of alternatively driving or shipping her car to Albuquerque. We address these issues in turn.

House Hunting Trip

The travel orders authorize the employee to take a house hunting trip, not to exceed ten days, under the fixed rate option, which was selected by Ms. Webb. Based on the Federal Travel Regulation (FTR) provision for computing the fixed rate reimbursement for the house hunting trip, the agency approved the amount of \$555, which represents the applicable locality rate (\$111) multiplied by five. 41 CFR 302-5.13 (2004) (FTR 302-6.2). This was the maximum entitlement that Ms. Webb could receive under the fixed amount option. Notwithstanding the fact that Ms. Webb had very little time in which to conduct a house hunting trip prior to her transfer, there is no basis for awarding any larger amount.

Fixed Amount TQSE

Ms. Webb also elected fixed amount TQSE prior to the issuance of her orders, and was paid the maximum amount allowable. Subsequently, she realized that the thirty days authorized under this option would not provide enough time in which to locate and occupy permanent quarters at the new duty station. Ms. Webb states that in the rush to transfer her to Albuquerque, she was not counseled as effectively as she could have been with respect to the extent of her entitlements. She has submitted the requisite receipts with her travel voucher. Thus, she now wants to revise her election to opt for actual expense TQSE.

Here too, claimant cannot, under the regulations, receive an extension of the thirty-day period for fixed amount TQSE. 41 CFR 302-6.200, -6.202; *Joel Williams*, GSBCA 16437-RELO, 04-2 BCA ¶ 32,769; *Jeffrey D. Vance*, GSBCA 16016-RELO, 03-2 BCA ¶ 32,317. Nor may she retroactively alter the choice she made to elect fixed amount TQSE. It is well-settled that travel orders, once the travel has been performed, may not be retroactively amended to change the travel authorization from fixed amount to actual expense TQSE. *Williams*; *Samuel E. Jones*, GSBCA 15770-RELO, 02-2 BCA ¶ 31,897.

Costs Incurred in Connection with Transportation of Household Goods

Ms. Webb also points out that the expenses she incurred in purchasing a one-way airline ticket to Memphis and then returning to Albuquerque in her personally owned vehicle (POV) were necessitated by mistakes on the part of the moving company hired under the GBL, and the agency's subsequent position that she needed to supervise the move in person if she wanted it to continue at Government expense. Since the mover was selected by the Government, she believes that the cost of the airplane ticket to return to oversee the transportation of her household goods should be reimbursed by the agency. HUD has declined to reimburse her, stating its view that there is no authority under the regulations to pay for this expense. Given the information provided by Ms. Webb with respect to the underlying events that precipitated her trip to Memphis to oversee the shipment of her household goods, which HUD has not addressed in its response, we conclude that, in fact, these expenses are reimbursable.

Ordinarily, an agency is expected not only to issue travel orders to a transferring employee before he or she is expected to report to the new duty station, but also to inform the employee of his or her transfer in sufficient time to permit the employee to prepare for the move. FTR 302.2-103; *see also Deborah A. Osipchak*, B-270196 (Mar. 22, 1996); 54 Comp. Gen. 993 (1975). Here, in order to resolve staffing exigencies, the agency was not in a position to accord Ms. Webb the customary opportunity to prepare for her move prior to reporting to the new duty station, which appears to have contributed to some of the subsequent events that have sparked Ms. Webb's claim.

With respect to the transportation of household items, the Government authorized use of the actual expense method, under which a GBL is issued and the Government assumes complete responsibility for the move, including coordination with the moving company and its personnel. *See, e.g., Lawrence M. Ribakoff*, GSBCA 13892-RELO, 97-2 BCA ¶ 29,018. Here, however, the agency essentially, although no doubt unintentionally, shifted some of this responsibility to Ms. Webb.

This case is similar in many respects to the Board's decision in *Marilyn Daterman*, GSBCA 13686-RELO, 97-1 BCA ¶ 28,880. There, the agency also asked the employee to report for duty at the new location almost immediately after notifying her of the transfer. Since there was no one available to assist with the move at the old duty station, the agency, reasoning that either the employee, the GBL-issuing official, or another employee of the agency remaining at the old duty station should supervise the move, authorized Ms. Daterman to return to her old duty station to effect the move of her household goods. The agency's finance office objected, relying on the rule of thumb that once an employee has reported to the new duty station, travel to that duty station for purposes of the move has been accomplished and cannot be reimbursed again. The Board reasoned that under the circumstances of *Daterman* it was proper to return the employee, at Government expense, to the old duty station to oversee the move. This was because of the fundamental nature of a GBL move, in which the Government is obligated to undertake and discharge all of the administrative and supervisory responsibilities associated with the moving process. To the extent that an employee has been asked to report early to the new duty station, and there is no one available to oversee the GBL movers, it is permissible for the employee to return to the old duty station, at Government expense, and perform the requisite duties. *Id.*

Here, Ms. Webb tells us that she had made arrangements for her family to assist with the shipment of her household goods but that communications between moving personnel and her family members went awry. The Board is not in a position to assign blame for disagreements and misunderstandings arising between moving company personnel and the employee's family members. HUD has not commented on Ms. Webb's description of events or shown that the moving company was somehow denied reasonable access to the premises to perform its functions. *See, e.g., Scott E. Jones*, GSBCA 16449-RELO, 04-2 BCA ¶ 32,770 (employee failed to accord movers reasonable access to household goods in light of exceptionally unclean condition of premises). In effect, then, HUD's instruction to Ms. Webb that she return to Memphis forthwith if she wanted her household goods shipped to Albuquerque at Government expense constituted a de facto commitment to foot the expense of her travel to do so.

Having been effectively returned to Memphis to supervise the shipment of her household goods to Albuquerque, however, Ms. Webb made the decision to drive one of her cars to Albuquerque to accomplish the return journey, rather than fly. Her travel orders authorized reimbursement of the expense of driving one car to Albuquerque and reimbursement of the expense of shipping the other car. Ms. Webb apparently still intends to have her spouse drive one car to Albuquerque and be reimbursed for the cost of the drive. The cost to ship the second vehicle would have been slightly less expensive than the cost of reimbursing the mileage associated with driving the car. She is willing to have her reimbursement of this expense limited to the cost of shipping the vehicle, but believes she

is entitled to that amount, since the car would have had to be shipped if she had not driven it herself. The Board has previously noted that when a particular method of travel is authorized and the employee selects a substitute approach, it is permissible to reimburse the employee up to the amount of the selected method of travel. *E.g., Timothy R. DeFoggi*, GSBCA 16495-RELO, 05-1 BCA ¶ 32,853; *Peter C. Thurman*, GSBCA 15562-TRAV, 01-2 BCA ¶ 31,516. That is effectively what occurred here, and Ms. Webb's departure from the stated intent of the travel orders was essentially brought about by the agency's actions in requiring her to assist with the move. Under these circumstances the agency should reimburse Ms. Webb the cost of her one-way air fare and the amount that it would have cost to ship the car to Albuquerque, as she has asked, since it would have been responsible under the travel orders for the cost of shipping the car in addition to the expense of round trip air fare between Memphis and Albuquerque to supervise the movers.

CATHERINE B. HYATT
Board Judge